Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019

HOUSE BILL NO. 1204
(Representative Dockter)

AN ACT to create and enact a new section to chapter 13-05 of the North Dakota Century Code, relating to collection agency payment by credit card; and to amend and reenact section 13-05-01.1 of the North Dakota Century Code, relating to definitions applicable to collection agencies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 13-05-01.1 of the North Dakota Century Code is amended and reenacted as follows:

13-05-01.1. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Collection agency" means a person ~~or entity who~~that, in the ordinary course of business, engages in debt collection.

2. "Commissioner" means the commissioner of financial institutions.

3. "Communication" means the conveyance or receipt of information regarding or facilitating the collection of a debt, directly or indirectly, to or from any person through any medium.

4. "Credit card payment" means a payment made by a payment card which incurs a credit card interchange fee to the collection agency, regardless of the type of payment card used.

5. "Creditor" means a person ~~who~~that offers or extends credit creating a debt or to ~~whom~~which a debt is owed~~, but that~~. The term does not include a person to the extent ~~that~~ that person receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of that debt.

~~5.~~6. "Debt" means an obligation or alleged obligation to pay money arising out of a transaction, regardless of whether ~~or not~~ the obligation has been reduced to a judgment.

~~6.~~7. "Debt collection" means the act of collecting or attempting to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. ~~As used in this chapter, this~~The term also includes solicitation of debts for the purpose of collection and accepting assignment of debts for the purpose of collection.

~~7.~~8. "Insolvent" means the point at which a licensed entity's liabilities exceed the entity's tangible assets~~. For the purpose of this definition, tangible assets~~, which only include assets that have a physical existence and are capable of being assigned a value.

~~8.~~9. "Mortgage servicing company" means a company performing the required duties of a mortgage seller, such as collecting payments, releasing the lien on full payment, and confirming ~~that~~ taxes are paid and insurance is in force.

SECTION 2. A new section to chapter 13-05 of the North Dakota Century Code is created and enacted as follows:

Credit card payment.

A collection agency may collect or attempt to collect, in addition to the principal amount of a claim, a transaction fee for processing a credit card payment in an amount that does not exceed two and one-half percent of the payment amount if:

1. The transaction fee is not prohibited under section 13-05-02.2;

2. A no-cost payment option is available to the debtor; and

3. The collection agency discloses the no-cost option to the debtor at the same time and in the same manner as the debtor's credit card information is taken.

Speaker of the House	President of the Senate
Chief Clerk of the House	Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1204.

House Vote:	Yeas 88	Nays 2	Absent 4
Senate Vote:	Yeas 41	Nays 4	Absent 2

Chief Clerk of the House

Received by the Governor at _____M. on _____, 2019.

Approved at _____M. on _____, 2019.

Governor

Filed in this office this _____day of _____, 2019,

at _____ o'clock _____M.

Secretary of State